

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ESCAPES!, INC.,)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO: 09-00515-KD-M
)	
ALLAN A. BUNIAK, et al.,)	
Defendants.)	

ORDER

This matter is before the Court on Plaintiff's Motion for Entry of Damages through which Plaintiff requests that the Court enter damages and a final judgment against Defendants William J. Kearney, Dolores "Dee" Balliett, Legacy Land & Development, LLC, and Escapes Acquisition Company, LLC (Doc. 306); Plaintiff's Motion for Default Judgment against Defendant Legacy Land & Development, LLC and Defendant Escapes Acquisition Company, LLC (Doc. 309); and Plaintiff's Motion to Submit Newly Discovered Evidence (Doc. 311).

It is **ORDERED** that Plaintiff's Motion to Submit Newly Discovered Evidence (Doc. 311) in support of its motion for damages is **GRANTED**.

This matter is set for a **damages hearing** relating to the foregoing motions,¹ for **Thursday, August 16, 2012 at 1:00 p.m.** in Courtroom 5-A of the United States District Court,

¹ As to Defendants Legacy Land & Development, LLC, and Escapes Acquisition Company, LLC, pursuant to Rule 55(b)(2) which provides: "the court may conduct hearings ...when, to enter or effectuate [a default] judgment, it needs to: ... conduct an accounting...determine the amount of damages..establish the truth of any allegation by evidence; or...investigate any other matter." Fed.R.Civ.P. 55(b)(2). As to individual defendants William J. Kearney and Dolores "Dee" Balliett, pursuant to Rule 54(b): "...any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities[.]" Fed.R.Civ.P. 54(b).

113 Saint Joseph St., Mobile, Alabama, 36602.²

Moreover, Defendants William J. Kearney, Dolores “Dee” Balliett, Legacy Land & Development, LLC, and Escapes Acquisition Company, LLC are **ORDERED** to file any Response in Opposition to Plaintiff’s Motions (Docs. 306, 309) on or before **August 10, 2012**.

The Clerk is **DIRECTED** to provide a copy of this Order to these four (4) Defendants by mailing a copy of same (via certified mail return receipt) to the following addresses:³

-William J. Kearney, 631 South Orlando Avenue, Suite 400, Winter Park, FL, 32789;

-Dolores “Dee” Balliett, 631 South Orlando Avenue, Suite 400, Winter Park, FL, 32789;

-Legacy Land & Development, LLC, c/o Registered Agent, The Corporation Trust Company of Nevada, 311 South Division Street, Carson City, NV, 89703, as well as to the address where the Complaint was served, as set forth in Doc. 12;

-Escapes Acquisition Company, LLC, c/o Registered Agent, National Registered Agents, Inc. of NV, 1000 East William Street, Suite 204, Carson City, NV, 89701, as well as to the address where the Complaint was served, as set forth in Doc. 7.

Further, Plaintiff is **ORDERED** to file on or before **August 3, 2012** any and all evidence in support of the \$16,355.633.78 in damages as a Supplement⁴ to both the motion for damages

2 Because the only remaining issue before the Court is Plaintiff’s ability to recover damages against certain of the defendants, the hearing will be held in lieu of the Final Pre-Trial Conference which – along with the parties’ Joint Pretrial Document filing requirement -- is **CANCELED**.

3 It should be noted that the addresses for Legacy Land and Escapes Acquisition include addresses which are different than those of record. These addresses were obtained via the Nevada Secretary of State database. See <http://nvsos.gov/sosentitysearch/CorpSearch.aspx> (last visited 7/27/12). It appears that both limited liability companies are defunct insofar as their business licenses have been revoked and all of the officers resigned on 7/24/12. Nevertheless, the Court will make this last attempt to place these companies on notice of these default and damage proceedings.

4 Plaintiff’s Certificate of Service on this filing shall include both sets of addresses for Defendants Legacy Land & Development LLC and Escapes Acquisition Company, LLC (where the Complaint was served and the Nevada company addresses).

(Doc. 306) and motion for default judgment (Doc. 309).

DONE and **ORDERED** this the **27th** day of **July 2012**.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE

UNITED STATES DISTRICT JUDGE